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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|---------------------|
| 10/523,744 | 02/03/2005 | Martin M. Browne | PN0260 | 7951 |
| 36335 | 7590 | 09/07/2005 | EXAMINER | |
| AMERSHAM HEALTH IP DEPARTMENT 101 CARNEGIE CENTER PRINCETON, NJ 08540-6231 | | | | STIGELL, THEODORE J |
| | | ART UNIT | | PAPER NUMBER |
| | | 3763 | | |

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/523,744 | BROWNE, MARTIN M. | |
| | Examiner Theodore J. Stigell | Art Unit 3763 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 February 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 February 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/03/2005</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Medrad, Inc. (WO 03/053554). Medrad, Inc. clearly disclose an adaptor (100) with an automatic syringe pump (10) and a syringe (20), said adaptor comprising means (200,210,220) for agitating the contents of the syringe.

In regards to claim 2, Medrad, Inc. disclose an adaptor as recited in claim 1 wherein the adaptor body is receivable by a syringe receiving unit (66a, 66b, 68a, 68b).

In regards to claim 3, Medrad, Inc. disclose an adaptor as recited in claim 1 wherein the adaptor comprises a body receivable by the pump (discussed above), a syringe retainer (22a, 22b) for retaining the syringe, and a syringe driver (140) for agitating the contents of the syringe.

In regards to claim 4, Medrad, Inc. disclose an adaptor as recited in claim 3 wherein the adaptor body comprises an elongate cylindrically shaped portion receivable in the syringe pump.

In regards to claim 5, Medrad, Inc. disclose an adaptor as recited in claim 3 wherein the syringe retainer further comprises an annular syringe ring (22a, 22b).

In regard to claim 6, Medrad, Inc. disclose an adaptor as recited in claim 5 wherein the retaining means engages at least one flange transversely projecting from the syringe.

In regards to claims 7,8, and 9, Medrad, Inc. disclose an adaptor as recited in claim 5 further comprising a motor (200) and a drive belt (220) and driver causes said ring to reciprocally rotate.

In regards to claim 10, Medrad, Inc. disclose an adaptor as recited in claim 1 wherein a portion is sized and shaped so as to be recognizable by a size-reading unit.

In regards to claims 11-15, Medrad, Inc. disclose an adaptor as recited in claim 3 further comprising a syringe holding arm and an elongate guide piston (40) and an extension arm (60) and a rotateable drive rod.

In regards to claim 16, Medrad, Inc. disclose an adaptor as recited in claim 3 wherein syringe retainer is offset from the adaptor body.

In regards to claims 17 and 18, Medrad, Inc. disclose an adaptor as recited wherein the syringe and the body are positioned substantially parallel and in line.

In regards to claims 18 and 19, Medrad, Inc. disclose an apparatus and method as recited in claim1 wherein the apparatus includes an automatic syringe pump, a syringe, and an adaptor.

Conclusion

It is the Examiner's position that Applicant has evoked sixth paragraph, means-plus-function language to define Applicant's invention in claims 1, 5, and 7. If this is not the intention of the Applicant, appropriate correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Theodore Stigell


NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

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